

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:15-cv-00113-GCM
(3:12-cr-00239-GCM-DCK-24)

DENETRIA MYLES,)
Petitioner,)
v.)
UNITED STATES OF AMERICA,)
Respondent.)

ORDER

THIS MATTER is before the Court on Petitioner's *pro se* motion for reconsideration of the Order dismissing her § 2255 motion without prejudice based on the fact that her direct appeal was pending before the United States Court of Appeals for the Fourth Circuit at the time she filed the § 2255 motion. (3:15-cv-00113, Doc. No. 2: Order, filed May 21, 2015).¹ See United States v. Myles, No. 15-4107 (4th Cir. Feb. 24, 2015).

On February 18, 2015, Petitioner was sentenced to concurrent terms of 51-months' imprisonment and judgment was entered on February 23, 2015, and Petitioner appealed. (Id., Doc. No. 188: Judgment in a Criminal Case). On March 6, 2015, Petitioner filed her § 2255 petition seeking relief from her criminal judgment. Petitioner claimed that she received ineffective assistance of trial counsel arguing, among other things, that her counsel failed to properly prepare her case and failed to explore possible defenses. Petitioner also presented challenges to the trial evidence through arguments regarding the statute of limitations and lack of jurisdiction. (3:15-cv-00113-GCM, Doc. No. 1).

¹ The findings and conclusions of this Order are fully incorporated herein.

In her motion for reconsideration, Petitioner argues, among other contentions, that the Government presented perjured testimony and committed Brady violations in failing to serve her with potentially favorable information. (*Id.*, Doc. No. 4 at 1). As of May 29, 2015, Petitioner's direct appeal is still pending before the Fourth Circuit.

For the reasons stated in the Court's May 21st Order of dismissal, and for the reasons set forth herein, the Court finds that Petitioner's motion for reconsideration should be denied.

IT IS, THEREFORE, ORDERED that Petitioner's motion for reconsideration is **DENIED**. (Doc. No. 4).

IT IS FURTHER ORDERED that pursuant to Rule 11(a) of the Rules Governing Section 2255 Cases, this Court declines to issue a certificate of appealability as Petitioner has not made a substantial showing of a denial of a constitutional right. 28 U.S.C. § 2253(c)(2); Miller-El v. Cockrell, 537 U.S. 322, 336-38 (2003) (stating that in order to satisfy § 2253(c), a petitioner must demonstrate that reasonable jurists would find the district court's assessment of the constitutional claims debatable or wrong); Slack v. McDaniel, 529 U.S. 474, 484 (2000) (holding that when relief is denied on procedural grounds, a petitioner must establish both that the correctness of the dispositive procedural ruling is debatable and that the petition states a debatably valid claim of the denial of a constitutional right).

IT IS SO ORDERED.

Signed: June 1, 2015



Graham C. Mullen
United States District Judge

